

Remark

Applicant respectfully traverses the issuance of a Final Action on the first Office Action in this application. Under MPEP §706.07, "While the rules no longer give to an applicant the right to 'amend as often as the examiner presents new references or reasons for rejection,' present practice does not sanction hasty and ill-considered final rejections. The applicant who is seeking to define his or her invention in claims that will give him or her the patent protection to which he or she is justly entitled should receive the cooperation of the examiner to that end, and not be prematurely cut off in the prosecution of his or her application."

As noted by the Action, the present application is a continuation of 09/070497 (abandoned). All claims of the parent application were cancelled and new claims 35-50 added by preliminary amendment. The presently pending claims have not been previously examined. In the first and final Office Action in the instant application, a new ground of rejection under 35 U.S.C. §112, first paragraph was raised. Applicant has had no previous opportunity to address the issues raised in that rejection. Under the circumstances, Applicant respectfully submits that a final rejection on first Action was improper.

Solely for the purpose of maximizing the efficiency of prosecution, Applicant has chosen to expressly abandon the present application and to prosecute the claimed subject matter in co-pending U.S. Patent Application Serial No. 09/935,998, filed August 23, 2001. That application is also a continuation of USSN 09/070,497, as is the instant application. To avoid having to file duplicate copies of declarations, references and duplicative responses to Office Actions in both cases, Applicant has chosen to consolidate the claimed subject matter into a single application. The objections and rejections expressed in the Office Action of April 4, 2003 are therefore moot. The express abandonment in the instant case is without prejudice or disclaimer with respect to the claimed subject matter and in no way constitutes any admission or acquiescence concerning the patentability of the claimed subject matter.

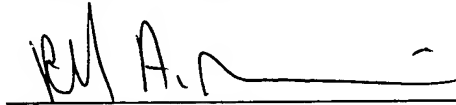
Charge our Deposit Account

It is believed that no fee is due as a result of the Amendment. However, if any fee is due, please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 5/28/03

A handwritten signature in black ink, appearing to read 'RM A. Nakashima', written over a horizontal line.

Richard A. Nakashima
Reg. No. 42,023

12400 Wilshire Boulevard
7th Floor
Los Angeles, California 90025-1030
(303) 740-1980